Supreme Court, U. S.
FILED
NOV 16 1978
MICHAEL RODAK, JR., CLERK

IN THE

SUPREME COURT OF THE UNITED STATES

October Term, 1978

No. 78-657

ISABEL KIMBLE, BRUCE BLACKDAR, MARY FRAZZINI, THEODORE OLESON, JR., MARJORIE DA COSTA EASTMAN,

Appellants,

v.

WILLIAM D. SWACKHAMER, Secretary of State of the State of Nevada,

and

LEGISLATIVE COMMISSION OF THE STATE OF NEVADA, Intervener,

Appellees.

On Appeal From The Supreme Court Of Nevada

MOTION OF APPELLEE LEGISLATIVE COMMISSION TO DISMISS OR AFFIRM

Frank W. Daykin
Legislative Counsel
Counsel for Appellee
Legislative Commission

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Appellee legislative commission of the State of Nevada moves the Court (1) to dismiss the appeal taken in this action on the ground that the question presented has become moot or (2) in the alternative to dismiss the appeal or affirm the judgment of the Supreme Court of the State of Nevada on the ground that the question presented does not deserve further argument. This appellee adopts and endorses the presentation of these grounds by the attorney general on behalf of appellee William D. Swackhamer, with the single exception noted in the following paragraph.

In the proceedings of the 1977 session of the legislature upon the proposed "equal rights" amendment, the senate did not adopt the joint resolution for ratification, because under section 18 of article 4 of the Nevada constitution "a majority of all the members elected to each house shall be necessary to pass every bill or joint resolution," and the joint resolution in question received the affirmative votes of but 10 of the 20 senators. It is the official opinion of the legislative counsel (not disputed by the attorney general) that the lieutenant governor has no power to vote upon the passage of a bill or joint resolution. To dispose of this action, it is not necessary to decide whether the senate passed the joint resolution, for the

assembly did not, but the legislative commission could not let the recital pass unchallenged.

Dated this 14th day of November, 1978.

Respectfully submitted,

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Legislative Commission
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Certificate of Service

On November _____, 1978, pursuant to paragraph 1 of SCR 33, I mailed three copies of the foregoing motion to counsel of record for appellants and for appellee William D. Swackhamer.

_____
Frank W. Daykin
Legislative Counsel